
HOUSE BILL 3153

State of Washington 60th Legislature 2008 Regular Session

By Representatives Roach, Ahern, Hurst, McCune, Blake, Loomis,
Pearson, Williams, Haler, Kelley, and Warnick

Read first time 01/23/08. Referred to Committee on Judiciary.

1 AN ACT Relating to the penalty for vehicular homicide while under
2 the influence of intoxicating liquor or any drug; amending RCW
3 46.61.520, 9.94A.540, and 46.20.285; reenacting and amending RCW
4 9.94A.515; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 46.61.520 and 1998 c 211 s 2 are each amended to read
7 as follows:

8 (1) When the death of any person ensues within three years as a
9 proximate result of injury proximately caused by the driving of any
10 vehicle by any person, the driver is guilty of vehicular homicide if
11 the driver was operating a motor vehicle:

12 (a) While under the influence of intoxicating liquor or any drug,
13 as defined by RCW 46.61.502; or

14 (b) In a reckless manner; or

15 (c) With disregard for the safety of others.

16 (2) Vehicular homicide is a class A felony punishable under chapter
17 9A.20 RCW, except that, for a conviction under subsection (1)(a) of
18 this section, the mandatory minimum specified in RCW 9.94A.540 shall

1 apply, and an additional two years shall be added to the sentence for
2 each prior offense as defined in RCW 46.61.5055 other than a previous
3 violation of subsection (1)(a) of this section.

4 **Sec. 2.** RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read
5 as follows:

6 (1) Except to the extent provided in subsection (3) of this
7 section, the following minimum terms of total confinement are mandatory
8 and shall not be varied or modified under RCW 9.94A.535:

9 (a) An offender convicted of the crime of murder in the first
10 degree shall be sentenced to a term of total confinement not less than
11 twenty years.

12 (b) An offender convicted of the crime of assault in the first
13 degree or assault of a child in the first degree where the offender
14 used force or means likely to result in death or intended to kill the
15 victim shall be sentenced to a term of total confinement not less than
16 five years.

17 (c) An offender convicted of the crime of rape in the first degree
18 shall be sentenced to a term of total confinement not less than five
19 years.

20 (d) An offender convicted of the crime of sexually violent predator
21 escape shall be sentenced to a minimum term of total confinement not
22 less than sixty months.

23 (e) An offender convicted of the crime of vehicular homicide under
24 RCW 46.61.520(1)(a) shall be sentenced to a minimum term of total
25 confinement: (i) Not less than five years for a first violation of RCW
26 46.61.520(1)(a); (ii) not less than ten years for a second violation of
27 RCW 46.61.520(1)(a); or (iii) not less than fifteen years for a third
28 or subsequent violation of RCW 46.61.520(1)(a).

29 (2) During such minimum terms of total confinement, no offender
30 subject to the provisions of this section is eligible for community
31 custody, earned release time, furlough, home detention, partial
32 confinement, work crew, work release, or any other form of early
33 release authorized under RCW 9.94A.728, or any other form of authorized
34 leave of absence from the correctional facility while not in the direct
35 custody of a corrections officer. The provisions of this subsection
36 shall not apply: (a) In the case of an offender in need of emergency
37 medical treatment; (b) for the purpose of commitment to an inpatient

1 treatment facility in the case of an offender convicted of the crime of
2 rape in the first degree; or (c) for an extraordinary medical placement
3 when authorized under RCW 9.94A.728(4).

4 (3)(a) Subsection (1) of this section shall not be applied in
5 sentencing of juveniles tried as adults pursuant to RCW
6 13.04.030(1)(e)(i).

7 (b) This subsection (3) applies only to crimes committed on or
8 after July 24, 2005.

9 **Sec. 3.** RCW 46.20.285 and 2005 c 288 s 4 are each amended to read
10 as follows:

11 The department shall revoke the license of any driver for the
12 period of one calendar year unless otherwise provided in this section,
13 upon receiving a record of the driver's conviction of any of the
14 following offenses, when the conviction has become final:

15 (1) For vehicular homicide the period of revocation shall be two
16 years, except that for a violation of RCW 46.61.520(1)(a) the period of
17 revocation shall be ten years for a first violation of RCW
18 46.61.520(1)(a), twenty years for a second violation of RCW
19 46.61.520(1)(a), or thirty years for a third or subsequent violation of
20 RCW 46.61.520(1)(a). The revocation period shall be tolled during any
21 period of total confinement for the offense;

22 (2) Vehicular assault. The revocation period shall be tolled
23 during any period of total confinement for the offense;

24 (3) Driving a motor vehicle while under the influence of
25 intoxicating liquor or a narcotic drug, or under the influence of any
26 other drug to a degree which renders the driver incapable of safely
27 driving a motor vehicle, for the period prescribed in RCW 46.61.5055;

28 (4) Any felony in the commission of which a motor vehicle is used;

29 (5) Failure to stop and give information or render aid as required
30 under the laws of this state in the event of a motor vehicle accident
31 resulting in the death or personal injury of another or resulting in
32 damage to a vehicle that is driven or attended by another;

33 (6) Perjury or the making of a false affidavit or statement under
34 oath to the department under Title 46 RCW or under any other law
35 relating to the ownership or operation of motor vehicles;

36 (7) Reckless driving upon a showing by the department's records

1 that the conviction is the third such conviction for the driver within
2 a period of two years.

3 **Sec. 4.** RCW 9.94A.515 and 2007 c 368 s 14 and 2007 c 199 s 10 are
4 each reenacted and amended to read as follows:
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TABLE 2	
CRIMES INCLUDED WITHIN	
EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW
4 70.74.280(3))
5 Sexually Violent Predator Escape
6 (RCW 9A.76.115)
7 Vehicular Homicide, by being under
8 the influence of intoxicating liquor or
9 any drug (RCW 46.61.520)
10 IX Abandonment of Dependent Person 1
11 (RCW 9A.42.060)
12 Assault of a Child 2 (RCW 9A.36.130)
13 Criminal Mistreatment 1 (RCW
14 9A.42.020)
15 Explosive devices prohibited (RCW
16 70.74.180)
17 Hit and Run--Death (RCW
18 46.52.020(4)(a))
19 Homicide by Watercraft, by being
20 under the influence of intoxicating
21 liquor or any drug (RCW
22 79A.60.050)
23 Inciting Criminal Profiteering (RCW
24 9A.82.060(1)(b))
25 Malicious placement of an explosive 2
26 (RCW 70.74.270(2))
27 Robbery 1 (RCW 9A.56.200)
28 Sexual Exploitation (RCW 9.68A.040)
29 ~~((Vehicular Homicide, by being under~~
30 ~~the influence of intoxicating liquor~~
31 ~~or any drug (RCW 46.61.520)))~~
32 VIII Arson 1 (RCW 9A.48.020)
33 Homicide by Watercraft, by the
34 operation of any vessel in a
35 reckless manner (RCW
36 79A.60.050)
37 Manslaughter 2 (RCW 9A.32.070)

1 Promoting Commercial Sexual Abuse
2 of a Minor (RCW 9.68A.101)
3 Promoting Prostitution 1 (RCW
4 9A.88.070)
5 Theft of Ammonia (RCW 69.55.010)
6 Vehicular Homicide, by the operation
7 of any vehicle in a reckless manner
8 (RCW 46.61.520)
9 VII Burglary 1 (RCW 9A.52.020)
10 Child Molestation 2 (RCW 9A.44.086)
11 Civil Disorder Training (RCW
12 9A.48.120)
13 Dealing in depictions of minor engaged
14 in sexually explicit conduct (RCW
15 9.68A.050)
16 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard
18 for the safety of others (RCW
19 79A.60.050)
20 Indecent Liberties (without forcible
21 compulsion) (RCW 9A.44.100(1)
22 (b) and (c))
23 Introducing Contraband 1 (RCW
24 9A.76.140)
25 Malicious placement of an explosive 3
26 (RCW 70.74.270(3))
27 Negligently Causing Death By Use of a
28 Signal Preemption Device (RCW
29 46.37.675)
30 Sending, bringing into state depictions
31 of minor engaged in sexually
32 explicit conduct (RCW 9.68A.060)
33 Unlawful Possession of a Firearm in
34 the first degree (RCW 9.41.040(1))
35 Use of a Machine Gun in Commission
36 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct (RCW 9.68A.070)
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Unlawful Storage of Ammonia (RCW
19 69.55.020)

20 V Abandonment of Dependent Person 2
21 (RCW 9A.42.070)
22 Advancing money or property for
23 extortionate extension of credit
24 (RCW 9A.82.030)
25 Bail Jumping with class A Felony
26 (RCW 9A.76.170(3)(b))
27 Child Molestation 3 (RCW 9A.44.089)
28 Criminal Mistreatment 2 (RCW
29 9A.42.030)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Domestic Violence Court Order
33 Violation (RCW 10.99.040,
34 10.99.050, 26.09.300, 26.10.220,
35 26.26.138, 26.50.110, 26.52.070,
36 or 74.34.145)

1 Driving While Under the Influence
2 (RCW 46.61.502(6))
3 Extortion 1 (RCW 9A.56.120)
4 Extortionate Extension of Credit (RCW
5 9A.82.020)
6 Extortionate Means to Collect
7 Extensions of Credit (RCW
8 9A.82.040)
9 Incest 2 (RCW 9A.64.020(2))
10 Kidnapping 2 (RCW 9A.40.030)
11 Perjury 1 (RCW 9A.72.020)
12 Persistent prison misbehavior (RCW
13 9.94.070)
14 Physical Control of a Vehicle While
15 Under the Influence (RCW
16 46.61.504(6))
17 Possession of a Stolen Firearm (RCW
18 9A.56.310)
19 Rape 3 (RCW 9A.44.060)
20 Rendering Criminal Assistance 1
21 (RCW 9A.76.070)
22 Sexual Misconduct with a Minor 1
23 (RCW 9A.44.093)
24 Sexually Violating Human Remains
25 (RCW 9A.44.105)
26 Stalking (RCW 9A.46.110)
27 Taking Motor Vehicle Without
28 Permission 1 (RCW 9A.56.070)
29 IV Arson 2 (RCW 9A.48.030)
30 Assault 2 (RCW 9A.36.021)
31 Assault 3 (of a Peace Officer with a
32 Projectile Stun Gun) (RCW
33 9A.36.031(1)(h))
34 Assault by Watercraft (RCW
35 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9A.46.1961)
5 Commercial Bribery (RCW 9A.68.060)
6 Counterfeiting (RCW 9.16.035(4))
7 Endangerment with a Controlled
8 Substance (RCW 9A.42.100)
9 Escape 1 (RCW 9A.76.110)
10 Hit and Run--Injury (RCW
11 46.52.020(4)(b))
12 Hit and Run with Vessel--Injury
13 Accident (RCW 79A.60.200(3))
14 Identity Theft 1 (RCW 9.35.020(2))
15 Indecent Exposure to Person Under
16 Age Fourteen (subsequent sex
17 offense) (RCW 9A.88.010)
18 Influencing Outcome of Sporting Event
19 (RCW 9A.82.070)
20 Malicious Harassment (RCW
21 9A.36.080)
22 Residential Burglary (RCW
23 9A.52.025)
24 Robbery 2 (RCW 9A.56.210)
25 Theft of Livestock 1 (RCW 9A.56.080)
26 Threats to Bomb (RCW 9.61.160)
27 Trafficking in Stolen Property 1 (RCW
28 9A.82.050)
29 Unlawful factoring of a credit card or
30 payment card transaction (RCW
31 9A.56.290(4)(b))
32 Unlawful transaction of health
33 coverage as a health care service
34 contractor (RCW 48.44.016(3))
35 Unlawful transaction of health
36 coverage as a health maintenance
37 organization (RCW 48.46.033(3))

1 Unlawful transaction of insurance
2 business (RCW 48.15.023(3))
3 Unlicensed practice as an insurance
4 professional (RCW 48.17.063(3))
5 Use of Proceeds of Criminal
6 Profiteering (RCW 9A.82.080 (1)
7 and (2))
8 Vehicular Assault, by being under the
9 influence of intoxicating liquor or
10 any drug, or by the operation or
11 driving of a vehicle in a reckless
12 manner (RCW 46.61.522)
13 Willful Failure to Return from
14 Furlough (RCW 72.66.060)
15 III Animal Cruelty 1 (Sexual Conduct or
16 Contact) (RCW 16.52.205(3))
17 Assault 3 (Except Assault 3 of a Peace
18 Officer With a Projectile Stun
19 Gun) (RCW 9A.36.031 except
20 subsection (1)(h))
21 Assault of a Child 3 (RCW 9A.36.140)
22 Bail Jumping with class B or C Felony
23 (RCW 9A.76.170(3)(c))
24 Burglary 2 (RCW 9A.52.030)
25 Commercial Sexual Abuse of a Minor
26 (RCW 9.68A.100)
27 Communication with a Minor for
28 Immoral Purposes (RCW
29 9.68A.090)
30 Criminal Gang Intimidation (RCW
31 9A.46.120)
32 Custodial Assault (RCW 9A.36.100)
33 Cyberstalking (subsequent conviction
34 or threat of death) (RCW
35 9.61.260(3))
36 Escape 2 (RCW 9A.76.120)
37 Extortion 2 (RCW 9A.56.130)

1 Harassment (RCW 9A.46.020)
2 Intimidating a Public Servant (RCW
3 9A.76.180)
4 Introducing Contraband 2 (RCW
5 9A.76.150)
6 Malicious Injury to Railroad Property
7 (RCW 81.60.070)
8 Negligently Causing Substantial Bodily
9 Harm By Use of a Signal
10 Preemption Device (RCW
11 46.37.674)
12 Organized Retail Theft 1 (RCW
13 9A.56.350(2))
14 Perjury 2 (RCW 9A.72.030)
15 Possession of Incendiary Device (RCW
16 9.40.120)
17 Possession of Machine Gun or Short-
18 Barreled Shotgun or Rifle (RCW
19 9.41.190)
20 Promoting Prostitution 2 (RCW
21 9A.88.080)
22 Retail Theft with Extenuating
23 Circumstances 1 (RCW
24 9A.56.360(2))
25 Securities Act violation (RCW
26 21.20.400)
27 Tampering with a Witness (RCW
28 9A.72.120)
29 Telephone Harassment (subsequent
30 conviction or threat of death)
31 (RCW 9.61.230(2))
32 Theft of Livestock 2 (RCW 9A.56.083)
33 Theft with the Intent to Resell 1 (RCW
34 9A.56.340(2))
35 Trafficking in Stolen Property 2 (RCW
36 9A.82.055)

1 Unlawful Imprisonment (RCW
2 9A.40.040)
3 Unlawful possession of firearm in the
4 second degree (RCW 9A.41.040(2))
5 Vehicular Assault, by the operation or
6 driving of a vehicle with disregard
7 for the safety of others (RCW
8 46.61.522)
9 Willful Failure to Return from Work
10 Release (RCW 72.65.070)
11 II Computer Trespass 1 (RCW
12 9A.52.110)
13 Counterfeiting (RCW 9.16.035(3))
14 Escape from Community Custody
15 (RCW 72.09.310)
16 Failure to Register as a Sex Offender
17 (second or subsequent offense)
18 (RCW 9A.44.130(~~(10)~~)) (11)(a)
19 Health Care False Claims (RCW
20 48.80.030)
21 Identity Theft 2 (RCW 9.35.020(3))
22 Improperly Obtaining Financial
23 Information (RCW 9.35.010)
24 Malicious Mischief 1 (RCW
25 9A.48.070)
26 Organized Retail Theft 2 (RCW
27 9A.56.350(3))
28 Possession of Stolen Property 1 (RCW
29 9A.56.150)
30 Possession of a Stolen Vehicle (RCW
31 9A.56.068)
32 Retail Theft with Extenuating
33 Circumstances 2 (RCW
34 9A.56.360(3))
35 Theft 1 (RCW 9A.56.030)
36 Theft of a Motor Vehicle (RCW
37 9A.56.065)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(5)(a))
5 Theft with the Intent to Resell 2 (RCW
6 9A.56.340(3))
7 Trafficking in Insurance Claims (RCW
8 48.30A.015)
9 Unlawful factoring of a credit card or
10 payment card transaction (RCW
11 9A.56.290(4)(a))
12 Unlawful Practice of Law (RCW
13 2.48.180)
14 Unlicensed Practice of a Profession or
15 Business (RCW 18.130.190(7))
16 Voyeurism (RCW 9A.44.115)
17 I Attempting to Elude a Pursuing Police
18 Vehicle (RCW 46.61.024)
19 False Verification for Welfare (RCW
20 74.08.055)
21 Forgery (RCW 9A.60.020)
22 Fraudulent Creation or Revocation of a
23 Mental Health Advance Directive
24 (RCW 9A.60.060)
25 Malicious Mischief 2 (RCW
26 9A.48.080)
27 Mineral Trespass (RCW 78.44.330)
28 Possession of Stolen Property 2 (RCW
29 9A.56.160)
30 Reckless Burning 1 (RCW 9A.48.040)
31 Taking Motor Vehicle Without
32 Permission 2 (RCW 9A.56.075)
33 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063(4))
10 Unlawful Issuance of Checks or Drafts
11 (RCW 9A.56.060)
12 Unlawful Possession of Fictitious
13 Identification (RCW 9A.56.320)
14 Unlawful Possession of Instruments of
15 Financial Fraud (RCW 9A.56.320)
16 Unlawful Possession of Payment
17 Instruments (RCW 9A.56.320)
18 Unlawful Possession of a Personal
19 Identification Device (RCW
20 9A.56.320)
21 Unlawful Production of Payment
22 Instruments (RCW 9A.56.320)
23 Unlawful Trafficking in Food Stamps
24 (RCW 9.91.142)
25 Unlawful Use of Food Stamps (RCW
26 9.91.144)
27 Vehicle Prowl 1 (RCW 9A.52.095)

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